

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the above amendments and in light of the following discussion, is respectfully requested.

Claims 12, 14, 23, and 25-28 are pending. In the present amendment, Claims 12 and 23 are currently amended. Support for the present amendment can be found in the original specification, for example, at page 9, line 33 to page 10, line 16, at page 11, lines 6-28, and in Figure 1b. Thus, it is respectfully submitted that no new matter is added.

In the outstanding Office Action, Claims 12, 14, 23, and 25-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over Schiminski et al. (U.S. Patent No. 4,431,138, hereinafter “Schiminski”) in view of Green (U.S. Patent No. 3,041,663), Schippers et al. (U.S. Patent No. 5,016,829, hereinafter “Schippers”), Ideno et al. (U.S. Patent No. 4,511,095, hereinafter “Ideno”), Sakurauchi et al. (Japanese Publication No. 06-329437, hereinafter “Sakurauchi”), and Westrich (U.S. Patent No. 6,105,896).

Turning now to the rejection under 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of this rejection and traverse this rejection, as discussed below.

Independent Claim 12 is hereby amended to clarify that the linear actuator continuously drives the spindles in a secondary stroke movement simultaneously with the primary stroke movement to wind the cake. Thus, the primary stroke movement performed by the positioning and guidance device is simultaneous with the secondary stroke movement performed by the linear actuator. Independent Claim 23, while directed to an alternative embodiment, also recites that the primary and secondary stroke movements are simultaneous.

It is respectfully submitted that the cited references do not disclose or suggest every feature recited in independent Claims 12 and 23.

The Office Action relies on references that were previously recited to reject the claims. Accordingly, the discussion of these references from the previous response are incorporated herein by reference and resubmitted.

Schiminski is again cited as the primary reference. As can be seen in Figure 1 of Schiminski, the linear movement of the guiding device 3 extends the thread 8 along the whole length of the spindle to wind the cake of thread around the spindle. Further, after winding of the cake is completed, Schiminski describes that the spindle is moved linearly in direction 15 so that the spindle can be switched.¹ Thus, the secondary movement in Schiminski is not performed until after the primary movement is completed. Accordingly, Schiminski does not disclose or suggest that the primary and secondary movement are simultaneous.

The Office Action, in the first paragraph on page 4, takes the position that the traverse 24 of Green performs a primary stroke movement and the reversible motor 46 performs a secondary stroke movement. Further, the Office Action takes the position that it would have been obvious to substitute the positioning and guidance and linearly shifting of Green into Schiminski.

However, as discussed above, Schiminski uses only a primary stroke movement that extends over the whole length of the spindle and thus the secondary stroke movement is not performed until the winding of the cake is completed. Accordingly, Schiminski operates in a completely different manner than Green. Therefore, modifying Schiminski as suggested by the Office Action would improperly change the principle of operation of Schiminski. See MPEP 2143.01 VI.

Further, the Office Action cites the reason that such a change would be obvious to a person of ordinary skill in the art would be “to achieve the predictable result of building the desire thread package as thought by Green.” However, Schiminski already is capable of

¹ See Schiminski, at column 4, lines 68 to column 5, line 4 and in Figures 2 and 3.

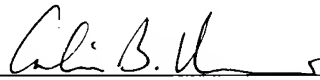
building a thread package. Further, if a person of ordinary skill in the art wanted to build the thread package of Green, then that person would use the device of Green and would not modify Schiminski. Thus, it appears that the modification of Schiminski suggested by the Office Action would only occur to a person of ordinary skill in the art through improper hindsight bias after reading the present application.

Accordingly, Applicants respectfully submit that a proper combination of Schiminski and Green does not disclose or suggest every feature recited in Claim 12. Further, Applicants respectfully submit that the remaining secondary references (Schippers, Ideno, Sakurauchi, and Westrich) do not cure the above-noted deficiencies of Schiminski and Green. Thus, it is respectfully requested that the rejection of independent Claims 12 and 23, and all claims dependent thereon, under 35 U.S.C. § 103(a) be withdrawn.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

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